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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Barbara ENENKEL, et al.) Confirm. No.: 5533
Serial No.: 10/724,301) Art Unit: 1652
Filed: November 26, 2003) Examiner: Walicka, M. A.
For: NEOMYCIN-PHOSPHOTRANSFERASE-GENES AND METHODS
FOR THE SELECTION OF RECOMBINANT CELLS PRODUCING
HIGH LEVELS OF A DESIRED GENE PRODUCT
Docket No.: 1/1411

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

Sir:

In response to the Office Action mailed on January 11, 2006, please enter the following elections and further consider the application in view of these elections.

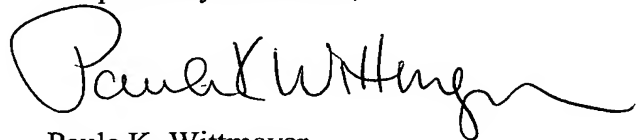
This Response is believed to be timely and therefore it is believed that no further fees are required. However, the Commissioner is hereby authorized to charge any required fees and credit any overpayments to Deposit Account No. 02-2955, if the required fees are not otherwise provided for in the reply.

ELECTIONS

Applicants hereby elect, with traverse, to prosecute claims directed to the invention of Group I directed to a neomycin phosphotransferase mutated in position 91, 198 and/or 240, its encoding gene, expression vector, host cell, and a method of use of the vector for enriching of mammalian cell, classified in class 436, subclass 325. Applicants, however, maintain that Groups II-VI V should be joined and examined together as they are sufficiently related such that the search for relevant art for one Group would be expected to uncover prior art that is relevant to the other Groups, since each of these Groups involve a neomycin phosphotransferase and use thereof. Thus, a search for relevant art and subsequent examination would not be an undue burden on the Examiner and restriction should be withdrawn as to Groups II-VI. M.P.E.P. § 803.

Applicants reserve the right to prosecute in one or more divisional applications whatever subject matter is not examined or allowed here. If the Examiner feels that a telephone interview would be helpful in advancing prosecution of this application, the Examiner is invited to contact the attorney below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paula K. Wittmayer", with a long, sweeping horizontal flourish extending to the right.

Paula K. Wittmayer
Attorney for Applicant(s)
Reg. No. 53,785

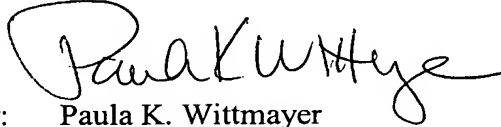
Application No. 10/724,301
Response dated February 9, 2006
Response to Office action of January 11, 2006

Patent Department
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Dated: 2/9/06

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on 2/9/06


By: Paula K. Wittmayer
Reg. No. 53,785